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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,051	01/24/2001	Paul David Goothers	10004801-1	2287

7590 10/13/2004
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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EXAMINER

ZHEN, LI B

ART UNIT PAPER NUMBER

2126

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/768,051

Applicant(s)

GOOTHERTS, PAUL DAVIS 

Examiner

Li B. Zhen

Art Unit

2126

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____


3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-19.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


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Continuation of 5. does NOT place the application in condition for allowance because: the applicant's arguments are not persuasive. In the response to the Final Office Action of June 16, 2004, applicant argues: (1) processor state is not determined by the processor load [p. 2, lines 13 - 18; p. 3, lines 18 - 21] and (2) Brenner fails to determine if a processor is in a sink state in order to transfer a thread from a source state processor queue to a sink state processor queue [p. 3, lines 13 - 15].

As to argument (1), examiner respectfully notes that the claimed limitations do not define or suggest what determines a processor state. Generally, a source is a device from which data is taken from and a sink is a device that receives data from another device. A reasonable interpretation of the claims would be a processor in a source state is a processor that will send data and a processor in a sink state is a processor that will receive data. Since Brenner teaches sending threads from heaviest loaded processor to the lightest loaded processor [col. 1, lines 62 - 65 of Brenner], the processor with the heaviest load is in a source state and the processor with the lightest load is in a sink state. Examiner respectfully notes that the currently presented claims do not preclude the examiner from mapping processors in source and sink states of the claims to processors with heavy and light loads of Brenner. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., p. 8, line 18 - p. 9, line 22 and p. 9, lines 12 - 20 of the specification) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Additionally, Brenner teaches starvation load balancing [i.e., col. 8, line 3 - col. 9, line 31].

In response to argument (2), examiner respectfully notes that Brenner teaches determining if a processor is in a sink [lowest load] state [scanning a node's local run queues to identify the local run queues having the largest and smallest number of assigned threads on average, i.e., the local run queues with the highest and lowest load averages; col. 7, lines 14 - 19] in order to transfer a thread from a source state processor queue to a sink state processor queue [shifting threads from heaviest loaded to lightest loaded; col. 1, lines 62 - 65].